



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2017-0086; FRL-9966-93-Region 4]

Air Plan Approval and Air Quality Designation; TN; Redesignation of the Knoxville 2006

24-hour PM_{2.5} Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 20, 2016, Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Knoxville-Sevierville-La Follette, TN fine particulate matter (PM_{2.5}) nonattainment area (hereinafter referred to as the “Knoxville Area” or “Area”) to attainment for the 2006 24-hour PM_{2.5} national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan and a reasonably available control measures (RACM) determination for the Area. EPA is approving Tennessee’s RACM determination for the Knoxville Area and incorporating it into the SIP; approving Tennessee’s plan for maintaining the 2006 24-hour PM_{2.5} NAAQS for the Knoxville Area (maintenance plan), including the associated motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and direct PM_{2.5} for the years 2014 and 2028, and incorporating it into the SIP; and redesignating the Knoxville Area to attainment for the 2006 24-hour PM_{2.5} NAAQS.

DATES: This rule is effective **[insert 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0086. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Sean Lakeman may be reached by phone at (404) 562-9043, or via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 1997, EPA promulgated the first air quality standards for PM_{2.5}. EPA promulgated an annual standard at a level of 15.0 micrograms per cubic meter (µg/m³), based on

a 3-year average of annual mean PM_{2.5} concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 µg/m³, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA retained the annual average NAAQS at 15.0 µg/m³ but revised the 24-hour NAAQS to 35 µg/m³, based again on the 3-year average of the 98th percentile of 24-hour concentrations.

On November 13, 2009, at 74 FR 58688, EPA designated the Knoxville Area as nonattainment for the 2006 24-hour PM_{2.5} NAAQS. All 2006 PM_{2.5} NAAQS areas were designated under title I, part D, subpart 1 (hereinafter “Subpart 1”). Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. On April 25, 2007 (72 FR 20586), EPA promulgated its Clean Air Fine Particle Implementation Rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the PM_{2.5} NAAQS. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the Clean Air Fine Particle Implementation Rule and the final rule entitled “Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})” (73 FR 28321, May 16, 2008) (collectively, “1997 PM_{2.5} Implementation Rules”) to EPA on January 4, 2013, in *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 PM_{2.5} NAAQS pursuant to the general implementation provisions of Subpart 1, rather than the particulate matter-specific provisions of title I, part D, subpart 4 (hereinafter “Subpart 4”).

On June 2, 2014, EPA published a rule entitled “Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for

the 1997 Fine Particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) and 2006 PM_{2.5} NAAQS”. *See* 79 FR 31566. In that rule, the Agency responded to the D.C. Circuit’s January 2013 decision by identifying all PM_{2.5} nonattainment areas for the 1997 and 2006 PM_{2.5} NAAQS as “moderate” nonattainment areas under Subpart 4, and by establishing a new SIP submission date of December 31, 2014, for moderate area attainment plans and for any additional attainment-related or nonattainment new source review plans necessary for areas to comply with the requirements applicable under Subpart 4. *Id.* at 31567-70.

Based on its moderate nonattainment area classification, Tennessee was required to submit a SIP revision addressing RACM pursuant to CAA section 172(c)(1) and section 189(a)(1)(C) for the Area. Although EPA does not believe that section 172(c)(1) and section 189(a)(1)(C) RACM must be approved into a SIP prior to redesignation of an area to attainment once that area is attaining the NAAQS, EPA is approving Tennessee’s RACM determination and incorporating it into its SIP pursuant to a recent decision by the United States Court of Appeals for the Sixth Circuit in *Sierra Club v. EPA*, 793 F.3d 656 (6th Cir. 2015).

In a notice of proposed rulemaking (NPRM) published on May 30, 2017 (82 FR 24621), EPA proposed to: 1) approve Tennessee’s RACM determination for the Knoxville Area pursuant to CAA sections 172(c)(1) and 189(a)(1)(C) and incorporate it into the SIP; 2) approve Tennessee’s plan for maintaining the 2006 24-hour PM_{2.5} NAAQS (maintenance plan), including the associated 2014 and 2028 MVEBs for PM_{2.5} and NO_x for the Knoxville Area, and incorporate it into the SIP; and 3) redesignate the Knoxville Area to attainment for the 2006 24-

hour PM_{2.5} NAAQS.¹ The details of Tennessee's submittal and the rationale for EPA's actions are explained in the NPRM. EPA did not receive any adverse comments on the proposed action.

II. What are the Effects of These Actions?

EPA's approval of Tennessee's redesignation request changes the legal designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 2006 24-hour PM_{2.5} NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of Tennessee's associated SIP revision also incorporates a plan for maintaining the 2006 24-hour PM_{2.5} NAAQS in the Area through 2028 and Tennessee's RACM determination into the Tennessee SIP. The maintenance plan includes contingency measures to remedy any future violations of the 2006 24-hour PM_{2.5} NAAQS and procedures for evaluation of potential violations. The maintenance plan also includes NO_x and PM_{2.5} MVEBs for 2014 and 2028 for the Knoxville Area. The 2014 and 2028 PM_{2.5} MVEBs are 1.22 tons per day (tpd) and 0.67 tpd, respectively. The 2014 and 2028 NO_x MVEBs are 42.73 tpd and 19.65 tpd, respectively.

III. Final Actions

EPA is taking the following final actions: 1) approving Tennessee's RACM determination for the Knoxville Area pursuant to CAA sections 172(c)(1) and 189(a)(1)(C) and incorporating it into the SIP; 2) approving Tennessee's plan for maintaining the 2006 24-hour PM_{2.5} NAAQS (maintenance plan), including the associated 2014 and 2028 MVEBs for the Knoxville Area, and incorporating it into the SIP; and 3) redesignating the Knoxville Area to attainment for the 2006 24-hour PM_{2.5} NAAQS.

¹ In a notice published in the Federal Register on March 10, 2017, EPA announced that it had found the MVEBs for the Knoxville Area for the 2006 24-hour PM_{2.5} NAAQS adequate for transportation conformity purposes. *See* 82 FR 13347.

Approval of the redesignation request changes the official designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 2006 24-hour PM_{2.5} NAAQS, found at 40 CFR part 81, from nonattainment to attainment.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January, 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs of tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: August 16, 2017.

V. Anne Heard,
Acting Regional Administrator,
Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart RR - Tennessee

2. Section 52.2220(e) is amended by adding entries for “2006 24-hour PM_{2.5} Maintenance Plan for the Knoxville-Sevierville-La Follette Area” and “RACM determination for the Knoxville-Sevierville-La Follette Area for the 2006 24-hour PM_{2.5} NAAQS” at the end of the table to read as follows:

§ 52.2220 Identification of plan.

(e) * * *

EPA-Approved Tennessee Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
**	**	**	*	
2006 24-hour PM _{2.5} Maintenance Plan for the Knoxville-Sevierville-La Follette Area	Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County (the area described by U.S. Census 2000 block group identifier 47-145-0307-2.)	12/20/2016	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	

RACM determination for the Knoxville-Sevierville-La Follette Area for the 2006 24-hour PM _{2.5} NAAQS	Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County (the area described by U.S. Census 2000 block group identifier 47-145-0307-2.)	12/20/2016	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	
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PART 81 - DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 81.343, the table entitled “Tennessee - 2006 24-Hour PM_{2.5} NAAQS” is amended by revising the entry for “Knoxville-Sevierville-La Follette, TN:” to read as follows:

§ 81.343 Tennessee.

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TENNESSEE— 2006 24-HOUR PM_{2.5} NAAQS (Primary and secondary)

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
Knoxville-Sevierville-La Follette, TN:	[Insert date of publication in the <u>Federal Register</u>]	Attainment		

Anderson County		Attainment		
Blount County		Attainment		
Knox County		Attainment		
Loudon County		Attainment		
Roane County (part)		Attainment		
The area described by U.S. Census 2000 block group identifier 47-145-0307-2.				
**	**	*	*	*

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 30 days after November 13, 2009, unless otherwise noted.

² This date is July 2, 2014, unless otherwise noted.

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[FR Doc. 2017-18088 Filed: 8/25/2017 8:45 am; Publication Date: 8/28/2017]